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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,333	02/20/2002	Timothy H. Daubenspeck	BUR920010152US1	7965
23550	7590	10/28/2003	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			ABRAHAM, FETSUM	
3 E-COMM SQUARE			ART UNIT	
ALBANY, NY 12207			PAPER NUMBER	

2826

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/079,333	DAUBENSPECK ET AL.	
	Examiner	Art Unit	
	Fetsum Abraham	2826	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 8 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_                      6) ☐ Other: \_\_\_\_\_

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### **Claims rejection**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. **Claims 5,19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

As for claim 5, said sidewall forming an angle with “horizontal of greater than 60 degrees” lacks a comparative reference to be definite. It is not clear what the “horizontal” as a single expression reflects to.

2. Claim 19 recites the limitation "the dielectric layer" in claim 16 . There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

3. **Claims 1-3,6,16,17,20 are rejected under 35 U.S.C. 102(b) as being anticipated by Nnomuru et al (5,969,428).**

As for claims 1,16, the patent discloses a laser alignment target and method in the front page having a surface (17) with out of plane portions of the same reflectivity and a sidewall resist (18) having different reflectivity on the top of the assembly.

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As for claims 2,3, the alternating contours represent one surface below the adjacent surface.

As for claim 6, the two surfaces of the same reflectivity are orthogonal to each other.

As for claim 17, the metallic layer (17) fills trenches created on the surface.

As for claim 20, there is a metallic layer covering the entire surface of the structure that can be used as wiring element.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 4,7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nomura et al.**

As for claim 4, although the prior art omits to disclose the thickness of the sidewall, it would have been obvious to one skilled in the art to choose a given thickness for a given application based on processing step, time, and reflectivity requirements which are all known variables in the art.

As for claim 7, the prior art uses metal for the claimed element. Although the type of metal may not have been taught in detail, it would have been obvious to one skilled in the art to include the claimed materials since they are metallic and no metal is discriminated from application in the prior art structure.

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**Claims 8,18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**Claims 9-14 are allowed.**

Any inquiry concerning this communication should be directed to Fetsum Abraham at telephone number (703) 305,3793, or by E-mail at *fetsum.abraham@uspto.gov*.

Any inquiry of a general nature or relating to the status of this application should be directed to the *SPE of AU:2826* at (703)308-6601, or the *Group receptionist* at (703) 308-0956.

Fetsum Abraham

10/16/03

